

A bill for an act

relating to elections; providing for a provisional certificate of election in certain circumstances; amending Minnesota Statutes 2008, sections 204C.40, subdivision 2; 204D.27, subdivision 8; 205.185, subdivision 3; 205A.10, subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 204C.40, subdivision 2, is amended to read:

Subd. 2. **Time of issuance; provisional certificate of election; certain offices.** (a)

No certificate of election shall be issued until seven days after the canvassing board has declared the result of the election. In case of a contest, ~~an election certificate shall not be issued until a court of proper jurisdiction has finally determined the contest.~~ a provisional certificate of election must be prepared and delivered as provided in subdivision 1 for the candidate declared elected by the county or state canvassing board. A provisional certificate of election is valid from the first day of the term of office for which the election was held until the date on which a court of proper jurisdiction has finally determined the contest. For purposes of Minnesota law, a candidate who has received a provisional certificate of election is considered duly elected and qualified to the office and must be granted all resulting rights and privileges provided by law until the date on which a court of proper jurisdiction has finally determined the contest.

(b) This subdivision shall not apply to candidates elected to the office of state senator or representative.

Sec. 2. Minnesota Statutes 2008, section 204D.27, subdivision 8, is amended to read:

Subd. 8. **Certificate of congressional election.** No certificate of election in a special election for senator or representative in Congress may be issued by the secretary

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of state to any individual declared elected by the county or state canvassing board until seven days after the canvassing board has canvassed the returns and declared the results of the election. In case of a contest ~~the certificate may not be issued until the district court determines the contest~~, a provisional certificate of election may be issued as provided in section 204C.40, subdivision 2.

Sec. 3. Minnesota Statutes 2008, section 205.185, subdivision 3, is amended to read:

Subd. 3. Canvass of returns, certificate of election, ballots, disposition. (a) Within seven days after an election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, ~~the certificate shall not be issued until the outcome of the contest has been determined by the proper court~~ a provisional certificate of election must be prepared and issued. A provisional certificate of election is valid from the first day of the term of office for which the election was held until the date on which a court of proper jurisdiction has finally determined the contest.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Sec. 4. Minnesota Statutes 2008, section 205A.10, subdivision 3, is amended to read:

Subd. 3. Canvass of returns, certificate of election, ballots, disposition. Within seven days after a school district election other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, ~~the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court~~ a provisional certificate of election must be prepared and issued. A provisional certificate of election is valid from the first day of the term of office for which the election was held until the date on which a court of proper jurisdiction has finally determined the contest. If there is

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3.1 a tie vote, the school board shall determine the result by lot. The clerk shall deliver the
3.2 certificate of election to the successful candidate by personal service or certified mail. The
3.3 successful candidate shall file an acceptance and oath of office in writing with the clerk
3.4 within 30 days of the date of mailing or personal service. A person who fails to qualify
3.5 prior to the time specified shall be deemed to have refused to serve, but that filing may
3.6 be made at any time before action to fill the vacancy has been taken. The school district
3.7 clerk shall certify the results of the election to the county auditor, and the clerk shall be the
3.8 final custodian of the ballots and the returns of the election.

3.9 A school district canvassing board shall perform the duties of the school board
3.10 according to the requirements of this subdivision for a recount of a special election
3.11 conducted under section 126C.17, subdivision 9, or 475.59.

3.12 Sec. 5. **EFFECTIVE DATE.**

3.13 Sections 1 to 4 are effective the day following final enactment, and apply to any
3.14 election contests pending on or after that date.